

State of South Carolina  
In The Court of Appeals

---

Appeal From The Administrative Law Court

---

ALC Case No. : 20-ALJ-P-0042

Appellate Case No. 2021-000361

---

Willie Franklin # 142180

Appellant,

Vs.

S.C. Dept. of Probation, Parole and Pardon Services Respondent.

---

Appellant's Brief on Appeal

---

Willie Franklin # 142180  
Appellant Pro Se

S T A T E M E N T O F I S S U E S O N A P P E A L

1. DID THE RESPONDENT DENY APPELLANT PAROLE BY UTILIZING CRITERIA CONSIDERATIONS BEYOND THE SCOPE OF THE CRITERIA SET FORTH IN THE PROVISIONS OF SECTION §24-21-640 OF THE SOUTH CAROLINA CODE OF LAWS?

2. ARE THE REASONS ARTICULATED FOR APPELLANT'S DENIAL, AND PUBLISHED BY THE RESPONDENT IN THEIR "NOTICE OF REJECTION," ARBITRARY AND CAPRICIOUS?

3. WAS THE APPELLANT DENIED FUNDAMENTAL FAIRNESS, AND EQUAL PROTECTION OF LAW BY HAVING HIS PAROLE DENIED FOR REASONS BASED ON CRITERIA BEYOND THE SCOPE OF SECTION §24-21-640 OF THE SOUTH CAROLINA CODE OF LAWS?

4. HAS THE RESPONDENT ABUSED THEIR DISCRETIONARY AUTHORITY BY REPEATEDLY DENYING APPELLANT PAROLE BASED ON THE IMPRACTICAL AND UNREASONABLE FINDINGS OF FACT CITED IN THEIR NOTICE OF REJECTION?

S T A T E M E N T O F T H E C A S E

Appellant was indicted by the Grand Jury of Aiken County in July, 1987, for murder and grand larceny. Thereafter, Appellant proceeded to trial and after being found guilty was sentenced to a term of life imprisonment to be served in the custody of the South Carolina Department of Corrections. Pursuant to the laws in place at the time of Appellant's conviction, he became eligible for parole consideration after the service of twenty (20) years.

F A C T S A N D A R G U M E N T S F O R R E V I E W

Appellant first appeared before the Parole Board review hearing in 2007, at which time the Respondent declined to grant parole, citing "the nature and seriousness of current offense" as the reason for their denial.

Appellant, again appeared before the Parole Board for consideration of his case in 2009. However, all of Appellant's subsequent reviews have always occurred several months past the statutory required time period (§24-21-650) for additional reviews. The

Respondent's intentional delay of subsequent reviews, reduces the number of reviews afforded the Appellant and denies him the fundamental **equal protection of law** specifically set forth in the statutory language. Furthermore, in every subsequent review Appellant has received since his initial review, the Respondent has cited the very same reason for rejection (nature and seriousness of current offense) time and time again.

The Respondent created a document entitle "South Carolina Department of Probation, Parole and Pardon Services Criteria for Parole Consideration." Appellant is provided copy of this document and required to sign it prior to his parole review hearings. Respondent will include a copy of this document in their **RECORD ON APPEL**. When reviewing the document, the Court will discover that it contains a list of **sixteen (16) criteria considerations** of which the Respondent relies on "when deliberating" whether to grant or deny a prisoner's parole. The "Board or panel" weighs the factors listed as "criteria considerations" when making their decision.

Appellant argues that several of these criteria consideration factors published by the Respondent are not only **unreasonable and impractical**, they're also **arbitrary and capricious**. At least eight (8) of the criteria considerations listed in this document offer potential parolees no ability to influence a favorable decision because of the fact that there's nothing a potential parolee can offer in the way of beneficial achievements that will mitigate the negative affect of such strict "criteria considerations." Offered in support of this argument, Appellant submits Respondent's "Notice of Rejection" letter along with Respondent's criteria consideration document as exhibits.

By disregarding the **statutory criteria** set forth in Section §24-21-640 in favor of their own internally created criteria when deliberating parole consideration, this creates a **disadvantage** completely unfair to the Appellant because half (50%) of Respondent's criteria considerations are arbitrary and capricious. Essentially, employing such a strict criteria allows the Respondent to abuse their **discretionary authority** without fear or concern of reprisal.

Appellant predicts the Respondent will attempt to argue that because other prisoners have been granted parole using their internal

criteria, that this provides proof that their criteria considerations are not arbitrary and capricious. However, the actual use of such **impractical criteria reasoning** provides them the ability to exercise **unbridled discretion**. In their criteria document, the Respondent repeatedly and aggressively assert their "**absolute discretion**" using several authoritative phrases throughout the entire document.

Furthermore, Respondent's repeated use, time and time again, of the very same reasons for rejection as an excuse to deny parole clearly demonstrates a flagrant abuse of their discretionary authority.

Appellant completely understands that South Carolina prisoners have no constitutional right to parol. However, because Appellant is legally entitled, under the provisions of statutory law, to receive parole consideration review hearings, fundamental fairness demands that he receive fair and proper consideration by a parole board that bases its decisions on reasonable, practical, and logical criteria.

In regards to Appellant's statutory right to receive **timely** additional consideration reviews, Appellant simply argues that the language and legislative intent of the controlling statutes (§24-21-650) dictates specifically when these additional reviews are to be conducted. At the time of Appellant's conviction he became eligible for parole after the service of twenty (20) years incarceration. After receiving that initial parole hearing, because it resulted in a "negative determination" Appellant's future reviews were to occur "**every two years**" based on the language and legislative intent of statutory law. Therefore, Respondent's intentional delay and extension of Appellant's additional reviews beyond the two year (24 months) period lends further proof of their **abuse of authority** and the denial of Appellant's statutory created liberty interest in having his reviews conducted in compliance with the provision of law.

#### S T A N D A R D O F R E V I E W

On appeal of a final decision of the South Carolina Department of Probation, Parole and Pardon Services, the Administrative Procedures Act (APA) provides the appropriate standard of review, see S.C. Code Ann. §1-23-380(5) and §1-23-610(B).

#### S T A T U T O R Y P R O V I S I O N S C I T E D

Section §24-21-640, reads as follows:

"The board must carefully consider the record of the prisoner before, during and after imprisonment, and no such prisoner may be

paroled until it appears to the satisfaction of the board: that the prisoner has shown a disposition to reform; that in the future he will probably obey the law and lead a correct life; that by his conduct he has merited the lessening of the rigors of his imprisonment; that the interest of society will not be impaired thereby; and that suitable employment has been secured for him. (emphasis added).

Section §24-21-650, reads in pertinent part as follows:

"Upon a negative determination for parole, prisoners in confinement for a violent crime as defined in Section §16-1-60, **must have their cases review every two years** for the purpose of a determination of parole." (emphasis added).

#### C A S E L A W A N A L Y S I S

"The first question of statutory interpretation is whether the statute's **meaning is clear on its face**." Wade v. Berkley County, 348 S.C. 224, 559 S.E.2d 586 (2002). (emphasis added).

In determining matters of statutory law, "all rules of statutory construction are **subservient to the Maxim that legislative intent must prevail**." State v. Pittman, 373 S.C. 527, 647 S.E.2d 144 (2007). (emphasis added).

"A statute **must be taken as found**, giving effect to the legislative intent as **expressed in its language**." State v. White, 338 S.C. 56, 525 S.E.2d 261 (1999). (emphasis added).

"if the terms of a statute are clear, the court **must apply those terms to their literal meaning**." City of Columbia v. Am. Civil Liberties Union of S.C. Inc., 323 S.C. 384, 475 S.E.2d 747 (1996). (emphasis added).


#### C O N C L U T I O N

The Respondent has repeatedly rendered its decision contrary to, and in opposition of clearly established statutory law. The provisions set forth in Section §24-21-640, provide guidance concerning what criteria considerations should be used when considering prisoners for parole. Section §24-21-650, specifically outlines the length of time allowed to pass before being considered for additional review hearings. The provision of these statutes have a specific purpose and intent set forth and determined by the General Assembly of South Carolina.

Respondent's routine disregard of these statutes demonstrates a malicious and willful intent to arbitrarily deny prisoner parole.

Therefore, based on the questions, facts, matters of law and arguments presented herein, this Honorable Court should reverse Respondent's decision to deny parole, and remand with instructions to conduct a new parole hearing in compliance with the provisions of statutory law, or in the alternative, pursue appropriate relief to resolve this matter.

Respectfully Submitted,



---

Willie Franklin #142180 pro se

Dated: <sup>June</sup>~~January~~ 21, 2021.

State of South Carolina  
In The Court of Appeals

---

Appeal From The Administrative Law Court

**RECEIVED**

JUN 28 2021

---

SC Court of Appeals

ALC Case No.: 20-AW-P-0042

Appellate Case No.: 2021-000361

---

Willie Franklin # 142180

Appellant,

Vs.

S.C. Dept. of Probation, Parole and Pardon Services Respondent.

---

Certificate of Service

---

# Certificate of Service

I, Willie Franklin, Appellant pro-se, do hereby certify that I have served a copy of Appellant's Brief on Appeal, dated June 21, 2021, on the Respondent by depositing a copy in the United States Mail, postage prepaid and addressed as follows:

S.C. Dept. of Probation, Parole and Pardon Services  
Office of General Counsel

Post Office Box 207  
Columbia, South Carolina  
29202

**RECEIVED**  
JUN 28 2021  
SC Court of Appeals

Willie E. Franklin  
Willie Franklin # 142150, pro-se

Dated: June 21, 2021

**RECEIVED**

JUN 28 2021

SC Court of Appeals

Dear Madam Clerk:

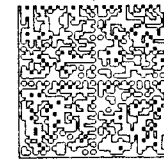
In response to your most recent correspondence, please accept the enclosed documents for filing in reference to case NO. 2021-000361.

Thank you for your assistance and I apologize for any inconvenience my delay has caused.

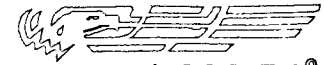
Respectfully,  
Willie E. Franklin

Willie Franklin

Willie Franklin #142180  
P.C.I. - Q2 A-223  
430 OAKLAWN ROAD  
Pelzer, S.C. 29669



U.S. POSTAGE PITNEY BOWES



ZIP 29210 \$ 000.51<sup>0</sup>  
02 4W  
0000378725 JUN 25 2021

Clerk of Court  
S.C. Court of Appeals  
Post Office Box 11629  
Columbia, South Carol.

29211

**RECEIVED**

JUN 28 2021

SC Court of Appeals

**RECEIVED**

JUN 23 2021

PCI MAILROOM